Prince Edward Island

Human Rights Commission

17th Report
Fiscal Year
1999-2000

ABOUT THE FRONT COVER

Background

In October 1999, the Prince Edward Island Human Rights Commission held a student poster contest entitled "'Human Rights' What Does it Mean to Me?". The Commission's intention was to have students reflect upon their thoughts on human rights, as well as the rights of all Islanders. Thirty entries were received and the successful entries were:

Top Prize

Class 3A Montague Consolidated School, Edwina Arbuckle, Teacher

Grade 6

1st Amanda MacDonald - 2nd Tyler J. Palmer - 3rd Laura Moore - Parkdale Elementary. Diane MacRae, Teacher

Grade 6

1st Jenna Clark - 2nd Ashley Dickie - 3rd Elizabeth Trainor - Greenfield Elementary. Ruth Sudsbury, Teacher

Grade 7

1st Tyson Blanchard - 2nd Jamie Barbour - ME Callaghan Junior High. Thanks to Elly Mae Horne for informing the students of the contest

The lucky students, teachers, parents/guardians and grandparents, along with many government, community official and seniors were invited to a ceremony celebrating the Anniversary of the Universal Declaration of Human Rights on December 10, 1999. The contest sponsor was Bank of Montreal (Grafton Street Branch) and the cash prizes were awarded by Nick Blanchard, Area Manager.

Collage Poster and Front Cover

A collage poster entitled "PEI Human Rights: Future 2000" was created with the help of Baxter Ramsay, Graphics Artist, Province of Prince Edward Island and was unveiled at the ceremony by the Honourable Wes MacAleer, Minister Responsible for the Human Rights Act and George S. Kells, Chairperson of the Prince Edward Island Human Rights Commission.

101-04602/

Prince Edward Island
Human Rights Commission

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The Honourable Jeffrey E. Lantz
Attorney General
Minister Responsible for the
Prince Edward Island Human Rights Commission
PO Box 2000
Charlottetown PE C1A 7N8

Dear Mr. Minister:

Re: Prince Edward Island Human Rights Commission 17th Fiscal Report

On behalf of the staff and Commissioners of the Prince Edward Island Human Rights Commission, I present the 17th Report for fiscal year ending March 31, 2000. This Annual Report includes the activities of the Commission, publications and the audited financial statements for fiscal year 1999-2000.

We submit this report to you for delivery to Her Majesty's Representative, the Lieutenant-Governor of Prince Edward Island.

Sincerely,

George S. Kells
Chairperson

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POWERS AND DUTIES OF COMMISSION

The Preamble to the Human Rights Act states that "*it is recognized that in Prince Edward Island as a fundamental principle that all persons are equal in dignity and human rights*".

Since the enactment of the Human Rights Act on September 11, 1976, the Prince Edward Island Human Rights Commission has been empowered to:

- administer and enforce the Act
- develop a program of public information and education in the field of human rights to forward the principle that every person is free and equal in dignity and rights.
- advise government on suggestions, recommendations and requests made by private organizations and individuals.
- report as required by the Minister on the business and activities of the Commission.
- consider, investigate or administer any matter or activity referred to the Commission by the Lieutenant Governor in Council or the Minister.

The Human Rights Act is deemed to prevail over all other laws of the Province.

REMARKS FROM THE CHAIRPERSON

This reporting year has been characterized by staff changes at the Commission. With the new positions and personnel, we are able to continue to maintain our commitment to the protection of human rights on Prince Edward Island.

In April 1999, Trudie MacKinnon, Compliance Officer since 1997, accepted a position in the Federal Public Service. I wish Trudie much success. In June, Janet Christian-Campbell joined the Commission staff. Janet is a member of the Prince Edward Island and Nova Scotia Bars.

In November, James Wyatt, Executive Director for the Commission for the past 11 years, accepted the position of Secretary/Treasurer of the Prince Edward Island Law Society. Jim's knowledge, experience and expertise in the field of human rights were known country-wide. He will be missed and we wish him all the best in the future. In December, Gregory J. Howard became the new Executive Director for the Commission. Greg is a partner with the Charlottetown law firm Curley Larter Sanderson Howard and has worked in the fields of human rights and administrative law. In May 1999, B. Lorraine Buell accepted the position as the Commission's Administrative Assistant and Patricia M. Butler accepted the position as the Commission's Education Officer.

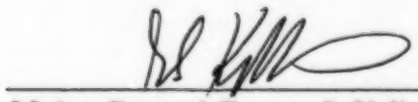
In our last Report, I outlined the importance of employment equity development initiatives in the provincial public sector on Prince Edward Island. There have been some steps made towards employment equity and inclusion of all members of society on a representative basis. I applaud the recent appointment of an Equity Officer with the Provincial Public Service. Stronger political emphasis is required to make this a reality. I continue to encourage government in its endeavours to move toward full employment equity and a provincial public service fully representative of the community.

Again this year, I wish to emphasize the supremacy of the Prince Edward Island Human Rights Act. The Act binds both public and private sector employers, indeed all Islanders, and reflects the best aspirations of our community and the high regard for the rule of law by the people of Prince Edward Island.

The Commission has been making an effort to address other important human rights issues now that more than 800 political belief complaints have been resolved. The Commission is able to fulfill its mandate with increased emphasis on education in human rights. This is a positive shift in focus for the Commission. The Commission's web site is currently under development and we have increased our participation in activities such as human rights education seminars, public events and on public awareness of human rights.

In addition to education, however, we have commenced the task of conducting Panel Hearings to resolve human rights complaints. The hearings are a new challenge for the Commission.

In conclusion, we have moved in a beneficial and practical direction as we try to carry out the high ideals of our Human Rights legislation.



Major General George S. Kells (Retired)

REMARKS FROM THE EXECUTIVE DIRECTOR

During this first year of my employment at the Commission, I have spent a great deal of time familiarizing myself with the budget preparation and staffing matters that are an essential part of directing operations. The Commissioners and staff have welcomed me and I appreciate their assistance.

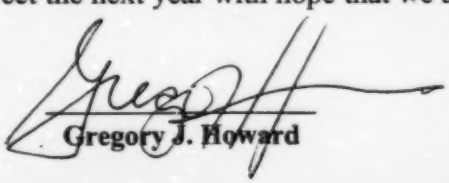
I have also been occupied with our new panel hearing process. Amendments to our Human Rights Act in 1998 called for the resolution of complaints through formal hearings, and staff at the Commission have been spending increasing time preparing for hearings. The requirement for such readiness has changed the nature of the Commission's work. A full-time Investigator and an Administrative Assistant help the Commission perform this important new role as adjudicator of human rights complaints.

Now that the Commissioners' role (and to a lesser extent, the role of the Executive Director) involves quasi-judicial decision-making, we have been developing policies and procedures for the efficient and fair conduct of hearings. The Province and its taxpayers are well served by the Human Rights Commissioners who take on the task of ruling on important disputes, serving on a *per diem* basis.

Only the role of the Commission's Education Officer is outside the hearing and decision-making process. The importance of education has been heightened because it allows the Commission to pro-actively address human rights issues. There is, unfortunately, often little room for education within the adversarial complaint process that ends in a written decision by one of our Commissioners.

The Prince Edward Island Commission agreed to host the National Conference, May 2002, of the Canadian Association of Statutory Human Rights Agencies (CASHRA). Our planning of the program for the 250 delegates will accelerate in the coming year and provide an organizational challenge.

On behalf of James Wyatt, I would like to thank summer law students Margaret Koren and Allen Campbell who helped prepare P.E.I.'s contribution to Canada's Report to the United Nations for this fiscal year. With many hearings scheduled and new, as well as familiar, administrative challenges, I greet the next year with hope that we at the Commission may ably fulfill our mandate.



Gregory J. Howard

COMMISSIONER'S PROFILES

GEORGE S. KELLS, CHAIRPERSON
Stratford

George Kells was appointed Chairperson of the Prince Edward Island Human Rights Commission on February 12, 1997. Prior to his retirement from the Canadian Armed Forces in 1993, Major General Kells held a number of senior level positions. Those positions included Deputy Chief of Staff, Operations Central Region, Trenton, Ontario; Director General, Conditions of Service, National Defence Headquarters, Ottawa; Chief of Personnel Services, National Defence Headquarters, Ottawa; and Canadian Defence Attache, Washington, DC. Altogether, Mr. Kells has served in four Canadian provinces and five foreign countries.

As Chief of Personnel Services, Mr. Kells had direct experience in personnel services policy including the areas of compensation and benefits, conditions of service, employment of women, and family support. As Director General, Conditions of Service, his duties included monitoring personnel policies, and creating policy and procedures to deal with morale difficulties, equal opportunities, official languages, and sexual harassment.

A native of Fredericton, Prince Edward Island, Mr. Kells attended high school at Prince of Wales College and received his BA. in Commerce from the Royal Military College in Kingston, Ontario. Subsequent to his retirement, he was employed as the Canadian representative of an American consulting firm.

Since joining the Commission, Mr. Kells has attended administrative tribunal training sessions sponsored by the Atlantic Council of Administrative Tribunals. In 1998 he was appointed to the Board of the Council of Canadian Administrative Tribunals and is an active member in the International Association of Official Human Rights Agencies (IAOHRA) and CASHRA. He will be President of CASHRA for 2002.

LOUISE COMEAU, COMMISSIONER
Abram Village

Louise Comeau was appointed Commissioner on September 1, 1994. Ms. Comeau is the owner of the first Economuseum on Prince Edward Island which includes a quilt manufacturing company called Les Creations Louise Comeau. Ms. Comeau is a member of the Board of Governors for Université de Ste. Anne and is currently the General Manager of the Baie Acadienne Development Corporation and a member of the Selection Committee of the Prince Edward Island Business Hall of Fame.

Ms. Comeau received her nursing education at the Nova Scotia Hospital in Dartmouth. She holds a Bachelor of Arts (French) from Université de St. Anne and a Master's Degree in Psychology from the Université de Moncton.

Since joining the Commission, Ms. Comeau has attended administrative tribunal training sessions in Halifax, sponsored by the Canadian Institute for Administration of Justice.

RICHARD P. NOONAN, COMMISSIONER
Summerside

Dick Noonan was appointed Commissioner on February 12, 1997. A native of Summerside, Mr. Noonan is no stranger to the Commission, having served as Commissioner from 1985 to 1989. From 1990 to 1993, he served as a member of the Canadian Human Rights Tribunal.

In addition to previous experience at both provincial and national levels, Mr. Noonan has an extensive record of public service and experience in personnel matters. He served as Superintendent of Education in Regional Administrative Unit 2, Principal of Summerside High School and President of the Prince Edward Island Teachers Federation. Mr. Noonan started his education career as a teacher of Social Studies and English. Prior to that he served two years in the Royal Canadian Navy.

Mr. Noonan received his Bachelor of Arts (History and English) from St. Dunstan's University, a Bachelor of Education from St. Francis Xavier and a Certificate of Administration from University of New Brunswick. He later attended numerous school administration and professional development programs.

Since joining the Commission, Mr. Noonan has attended administrative tribunal training sessions in Halifax, sponsored by the Canadian Institute for the Administration of Justice.

COMPLAINT STATISTICS

Prince Edward Island Human Rights Commission
April 1, 1999 - March 31, 2000
Complaint Statistics
Totals

	Filed 1999-2000	Carried-over from 1998-1999	Carried over to 2000-2001	*s*	*dm/c*	*w*	Total
Age		3	3				3
Association	3				3		3
Criminal Conviction	2		1	1			2
Ethnic, National Origin/Race/Colour	2	3	5				5
Family Status	3	1	3	1			4
Marital Status		3	3				3
Physical/ Mental Handicap	14	10	17	1	2	4	24
Political Belief	6	40	10		36		46
Religion/ Creed							
Sex	1	2				3	3
Sex - Harassment	10	5	13	1	1		15
Sex - Pregnancy	4	3	4	1		2	7
Sexual Orientation		1				1	1
Source of Income		1			1		1
Totals	45	72	59	5	43	10	117

s = settled dm/c = dismissed/discontinued w = withdrawn

Prince Edward Island Human Rights Commission

April 1, 1999 - March 31, 2000

Employment

	Filed 1999-2000	Carried-over from 1998-1999	Carried over to 2000-2001	*s*	*dm/c*	*w*	Total
Age		3	3				3
Association	3				3		3
Criminal Conviction	1			1			1
Ethnic, National Origin/Race/Colour	2	2	4				4
Family Status	2	1	2	1			3
Marital Status							
Physical/ Mental Handicap	8	7	10	1	2	2	15
Political Belief	6	40	10		36		46
Religion/Creed							
Sex	1	2				3	3
Sex - Harassment	10	5	13	1	1		15
Sex - Pregnancy	4	3	4	1		2	7
Sexual Orientation		1				1	1
Source of Income							
Totals	37	64	46	5	42	8	101

s = settled dm/c = dismissed/discontinued w = withdrawn

Prince Edward Island Human Rights Commission

April 1, 1999 - March 31, 2000

Public Services, Facilities and Accommodations

	Filed 1999-2000	Carried-over from 1998-1999	Carried over to 2000-2001	*s*	*dm/c*	*w*	Total
Age							
Association							
Criminal Conviction	1		1				1
Ethnic, National Origin/Race/Colour		1 (A)	1				1
Family Status	1		1				1
Marital Status		3	3				3
Physical/ Mental Handicap	2 (Services) 1 (Facilities) 3 (Accomm.)	3	7			2	9
Political Belief							
Religion/ Creed							
Sex							
Sex - Harassment							
Sex - Pregnancy							
Sexual Orientation							
Source of Income		1			1		1
Totals	8	8	13		1	2	16

s = settled dm/c = dismissed/discontinued w = withdrawn

COMPLAINT PROCESS

Complaint Filed

⇓

Executive Director may dismiss or discontinue at any stage up to Report to Chairperson

⇓

Request a Review by Chairperson

⇓

Decision Upheld | **Refer to Panel**

⇓ | ⇓

File Closed | **Panel Hearing**

⇓

Panel Decision

⇐ **Response Filed** ⇒

⇓

Settlement

⇓

File Closed

Complaint may be settled or withdrawn at any stage before Panel Decision.

Investigation

⇓

Investigation Report to Parties

⇐

⇓

No Settlement

⇓ | ⇓

Executive Director dismisses/ discontinues | **Executive Director Reports to Chairperson**

⇓ | ⇓

Request a Review by Chairperson

⇓ ↘

Decision Upheld | **Panel Hearing**

⇓ | ⇓

File Closed | **Panel Decision**

EDUCATION REPORT

During this fiscal year, the Prince Edward Island Human Rights Commission fulfilled its mandate to develop a program of public information and education in the field of human rights with the creation of the Education Officer's position.

The Education Officer conducted over 30 human rights presentations. The most requested topics were general human rights, sexual harassment and diversity in the workplace and at school. The Commission also presented information at the PEI Teacher's Convention and the Prince Edward Island Labour Market Expo. The Commission announced a poster contest open to all Prince Edward Island students.

We celebrated Human Rights Day, December 10th, in partnership with the Bank of Montreal and in conjunction with the International Year of Older Persons. At the celebration, the Human Rights Poster Contest winners were awarded cash prizes and the Prince Edward Island Human Rights Future 2000 Poster was unveiled. The Commission celebrated the International Day for the Elimination of Racial Discrimination, March 21st, in partnership with the Canadian Human Rights Commission and Prince Edward Island Multicultural Council. An evening gathering was filled with speeches, ethnic food and music.

The Commission was very busy with the revision of its pamphlets and policies, and we have taken an active role in the creation of press releases to educate the public regarding human rights. The Commission participated in a literacy audit conducted by the Prince Edward Island Literacy Alliance to ensure that our written materials are accessible to a wide audience.

The Education Officer represents the Commission on the Canadian Association of Statutory Human Rights Agencies (CASHRA) National Public Education Network Committee, Prince Edward Island Diversity Committee and PEACEWORKS.

Staff training included certificate courses from the University of Prince Edward Island's Centre for Conflict Resolution Studies, a Plain Language Course by the Prince Edward Island Literacy Alliance and French Language Training by the Prince Edward Island and Federal Governments.

LEGAL DECISIONS

1) **Employment/Political Belief**
Condon et al v Government of PEI et al GSC-17549 and 17539
In September 1999, various parties commenced an action in the Supreme Court for judicial review of the Chairperson's dismissal of their complaints of discrimination on the basis of political belief. The Applicants claim that amendments to the Human Rights Act providing a formula for compensation are contrary to section 15(1) of the Canadian Charter of Rights and Freedoms. These actions have not yet been set for a hearing.

2) **Employment/Race/Colour/Ethinic & National Origin**
On April 5, 2000, the Supreme Court of Prince Edward Island (Appeal Division) released **Ayangma v Prince Edward Island Eastern School Board** [2000] PESCAD 12. The Court held that the Prince Edward Island Human Rights Commission did not have authority to consider general questions of law or determine Charter issues. This matter was an appeal of a motion judge's summary dismissal of Mr. Ayangma's actions for relief under the Human Rights Act and the Charter. The Appeal Division reinstated Mr. Ayangma's Charter actions, but held that any relief to which he may be entitled under the Charter be granted only after the Human Rights Commission ruled on the claim of discrimination.

3) **The Supreme Court of Prince Edward Island also heard and decided other issues relating to Mr. Ayangma's claims of discrimination:**

(a) **Ayangma v Government of PEI** [2000] PESCAD 2
- request for submissions.

(b) **Ayangma v Government of PEI** [2000] PESCAD 5
- motion for a stay of appeal.

(c) **Ayangma v Government of PEI** [2000] PESCAD 11
- motion for extension of time to file an appeal of prothonotary's order.

(d) **Ayangma v The PEI Human Rights Commission** [2000] PESCAD 20
- appeal of an assessment of costs of $18,123.20 against appellant.

(e) **Ayangma v Government of PEI et al**, [1999] PESCTD, GSC-15787, December 20, 1999.

(f) **Ayangma v Government of PEI Eastern School Board**, [1999] PESCSTD, GSC-17004-17005, July 30, 1999. (appealed in [2000] PESCAD 12).

(g) **Ayangma v Government of PEI** [2000] PESCTD, GSC-15787, September 22, 2000.

The plaintiff alleged that a hiring process discriminated against him on the basis of race contrary to s.15(1) of the Charter. The Court found there was discrimination against Mr. Ayangma contrary to the Charter and awarded $7,500.00 general damages.

PANEL HEARING DECISIONS

Employment/Sex (Pregnancy)
Mary Taylor and Testori Americas Corporation

The Prince Edward Island Human Rights Commission held a Panel Hearing on March 10, 2000, the first since amendments to the Human Rights Act changed the Board of Inquiry process to a Panel Hearing system. Louise Comeau, Commissioner, Prince Edward Island Human Rights Commission, was the Commission Panel.

The Complainant, Mary Taylor, filed a Human Rights Complaint on November 18, 1998, against Testori Americas Corporation alleging that she was discriminated against in the matter of employment on the basis of sex (pregnancy). Ms. Taylor alleged that she was laid off from her employment due to her pregnancy and that she was denied health benefits during maternity leave. Testori Americas Corporation denied the allegations of discrimination.

The Commission Panel found that there was no discrimination in the lay-off, but found the employer's failure to provide health benefits to Ms. Taylor during her maternity leave was discrimination contrary to section 6(1) and 1(d) of the Human Rights Act. The employer's policy of excluding pregnant employees, on leave, from insurance benefits discriminated against Ms. Taylor on the basis of sex.

The Commission Panel ordered Testori Americas Corporation to reimburse Ms. Taylor $375.86 for medical expenses that would have been paid under the company's group policy of insurance. The Commission Panel further ordered Testori Americas Corporation to cease its practice of excluding pregnant employees on maternity leave from the group insurance policy and pay Ms. Taylor the amount of $1,200.00 for hurt and humiliation.

SETTLEMENTS

Among the settlements effected by the Prince Edward Island Human Rights Commission were the following:

Employment/Criminal Conviction

In May 1999, a Prince Edward Island man filed a human rights complaint on the basis that he was discriminated against due to previous criminal convictions, resulting in the loss of his position. The man worked as a substitute cleaner until he was offered a permanent position as night cleaner. The employment was conditional upon completing a probationary period and subject to a criminal record check. The man was forthright with his employer and advised them that he did have a criminal conviction. The man met with his employer regarding his future employment and was provided with a letter of dismissal and two weeks severance pay and was told that they had to be cautious and hire people "who have clear records". In reaching a settlement, the employer paid the Complainant $5,500 as compensation in full for any and all damages claimed in the Complaint.

Employment/Family Status

In October 1999, a Prince Edward Island woman went to an interview and after being asked a few questions regarding her work skills, the interviewer began asking questions about her husband, children and doctor. When the woman told the interviewer they were personal questions and had nothing to do with the job, the interviewer said "women with kids call in sick and stay home with the kids". The Respondent did not deny the allegations and in reaching a settlement, the Complainant received a letter of apology.

Employment/Physical/Mental Handicap

In May 1998, a Prince Edward Island woman filed a human rights complaint on the basis that she was discriminated against when dismissed from her employment due to a physical/mental disability. The woman was employed to break shellfish claws. The woman has epilepsy and her condition is controlled with the medication Tegretol. The woman experienced a minor seizure at work, which consisted of a metal taste in her mouth. She informed her supervisor that this had occurred. The next day she received a call from her supervisor who told her that she was being dismissed from her position because she had epilepsy and Worker's Compensation would not cover her if she injured herself during a seizure. The woman suffered no major seizures during her employment nor was she near any dangerous equipment. In reaching a settlement, the Complainant received a letter of apology, $3,000 for hurt feelings arising from the Complaint and the Respondent agreed to participate in educational training conducted by the Prince Edward Island Human Rights Commission, relating to human rights in the workplace.

Employment/Sex (Harassment)

In May 1999, a Prince Edward Island woman filed a human rights complaint alleging that she was being sexually harassed by her plant superintendent. She held the same position for three years and claimed that the man constantly watched her while she was working. She claimed that no matter where she was he was always there watching her. She informed her two supervisors, on more than one occasion, that she felt uncomfortable in the workplace and received no response from the company. Under doctor's orders, she was advised to take three weeks off due to medical reasons.

In reaching a settlement, the Respondent acknowledged that it did not deal with the Complainant's concerns promptly and determined after a thorough investigation that no sexual harassment had taken place. The Respondent stated that to avoid similar situations in the future, more care and attention in communicating employees' concerns would be taken. The Complainant was provided with a letter of apology, a letter of reference and the Respondent agreed to an educational seminar provided by the Prince Edward Island Human Rights Commission regarding human rights in the workplace for all staff.

Employment/Sex (Pregnancy)

In May 1999, a Prince Edward Island woman filed a human rights complaint alleging that she was discriminated against in employment because she was pregnant. The woman worked for the Respondent for almost two years and was considered a valued employee. Her doctor advised her to leave work because of stress. She presented the doctor's note to her supervisor and did not complete her shift. The Complainant had planned on moving and already had given her notice. She received her Record of Employment which stated that she had been dismissed. In reaching a settlement, the Respondent states that the paper trail did not support the Complainant's version of events, but was prepared to issue a letter of recommendation and a new record of employment. The Complainant accepted the terms of settlement offered by the Respondent.

PUBLICATIONS

The following is a list of publications that are available to the public free of charge from:

- Prince Edward Island Human Rights Commission
- Community Legal Information Association of Prince Edward Island, Inc. (CLIA)
  Sullivan Building, Fitzroy Entrance, PO Box 1207, Charlottetown PE C1A 7M8
  902-892-0853. Toll-free: 1-800-240-9798

Discrimination in Employment

Equality at Work

Guidelines: Pre and Post Employment Inquiries

Know Your Rights

Running a Business: What Must I Know About Human Rights?

Sexual Harassment

Your Rights of Access: Services, Facilities & Accommodations

Complainant's Guide

Respondent's Guide

Policies

Guidelines for Advertisers

Alcoholism Physical Disability 1999 Update

The PEI Human Rights Act and The Rights of Employees and Employers

Canadian Prohibited Grounds of Discrimination: Employment and Provision of Goods, Services, Facilities and Accommodation

What We Do

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C.P. 2000
Charlottetown
Île-du-Prince-Édouard
Canada C1A 7N8

August 7, 2000

Mr. George Kells
Chairperson
Human Rights Commission
Province of Prince Edward Island

Dear Mr. Kells:

Enclosed is a copy of the financial statements of the Prince Edward Island Human Rights Commission for the year ended March 31, 2000.

If you have any questions, please do not hesitate to contact this office.

Yours truly,

J. Wayne Murphy, FCA
Auditor General

JWM/cem
Encl.
cc: Hon. Jeffery E. Lantz
Mr. Gregory Howard
Mr. Brian MacVicar, CGA
Secretary to Treasury Board

AUDITOR GENERAL

CHARLOTTETOWN

PRINCE EDWARD ISLAND

PRINCE EDWARD ISLAND

HUMAN RIGHTS COMMISSION

FINANCIAL STATEMENTS

MARCH 31, 2000

AUDITOR GENERAL

CHARLOTTETOWN

PRINCE EDWARD ISLAND

AUDITOR'S REPORT

To the Commissioners of the
Prince Edward Island Human Rights Commission

I have audited the balance sheet of the Prince Edward Island Human Rights Commission as at March 31, 2000 and the statements of revenue, expenditure, and equity and cash flows for the year then ended. These financial statements are the responsibility of the Commission's management. My responsibility is to express an opinion on these financial statements based on my audit.

I conducted my audit in accordance with generally accepted auditing standards. Those standards require that I plan and perform an audit to obtain reasonable assurance whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.

In my opinion, these financial statements present fairly, in all material respects, the financial position of the Commission as at March 31, 2000 and the results of its operations and its cash flows for the year then ended in accordance with generally accepted accounting principles.

J. Wayne Murphy, FCA
Auditor General

Charlottetown, Prince Edward Island
April 13, 2000

PRINCE EDWARD ISLAND HUMAN RIGHTS COMMISSION

BALANCE SHEET

AS AT MARCH 31, 2000

	2000	1999
ASSETS		
Cash	$1,565	$2,250
Prepaids	4,649	-
	$6,214	$2,250
LIABILITIES AND EQUITY		
Accounts payable	$5,084	$2,253
Surplus (Deficit) - Statement 2	1,130	(3)
	$6,214	$2,250

(The accompanying notes are an integral part of these financial statements.)

SIGNED ON BEHALF OF THE COMMISSION:

COMMISSIONER: _____

COMMISSIONER: _____

PRINCE EDWARD ISLAND HUMAN RIGHTS COMMISSION

STATEMENT OF REVENUE, EXPENDITURE, AND EQUITY

FOR THE YEAR ENDED MARCH 31, 2000

	2000	1999
Revenue		
Province of P.E.I. - Grant	$289,200	$253,200
Expenditure		
Bank charges	-	121
Cleaning	2,974	-
Commissioners' honoraria and expenses	17,700	17,027
Furniture and equipment	6,055	1,718
Memberships and conferences	8,568	4,977
Miscellaneous	1,774	1,229
Office materials and supplies	2,850	2,474
Photocopying	4,808	3,422
Rent	17,500	7,700
Salaries and benefits	216,675	185,733
Staff travel	3,075	6,069
Telephone	6,088	5,500
	288,067	235,970
Net income for the year	1,133	17,230
Deficit at beginning of year	(3)	(17,233)
Surplus (Deficit) at end of year	$ 1,130	$ (3)

(The accompanying notes are an integral part of these financial statements.)

PRINCE EDWARD ISLAND HUMAN RIGHTS COMMISSION

STATEMENT OF CASH FLOWS

FOR THE YEAR ENDED MARCH 31, 2000

	2000	1999
CASH FLOWS FROM OPERATING ACTIVITIES		
Cash received from Province of PEI for operations	$289,200	$222,325
Cash paid for salaries and benefits	(216,675)	(185,733)
Cash paid for materials and services	(73,210)	(53,156)
Net decrease in cash	(685)	(16,564)
Cash, beginning of year	2,250	18,814
Cash, end of year	$ 1,565	$ 2,250

(The accompanying notes are an integral part of these financial statements)

PRINCE EDWARD ISLAND HUMAN RIGHTS COMMISSION

NOTES TO FINANCIAL STATEMENTS

MARCH 31, 2000

1. Purpose of the Organization

The P.E.I. Human Rights Commission is a corporate body which is responsible for administering and enforcing the provincial Human Rights Act. The Commission provides education and public information in the field of human rights. The Commission also inquires into and endeavours to effect a settlement of any complaint of a violation of the Human Rights Act filed with the Commission as prescribed by the Act.

2. Significant Accounting Policy

These statements were prepared in accordance with generally accepted accounting principles for non-profit organizations, with office equipment, furniture and computer software expensed in the year purchased.

3. Funds Disbursed In Trust

During the year the Province of Prince Edward Island paid out $29,470 (1999-$521,182) to settle political belief complaints. The entire amount was disbursed through the P.E.I. Human Rights Commission to individual complainants or to legal counsel acting on the complainants' behalf.

4. Provincial Appropriations

Legal fees for the year ended March 31, 2000 totalling $3,018 (1999-$2,825) were paid on the Commission's behalf by the Province of Prince Edward Island through the Department of Education and Attorney General. These fees are not included in Statement 2.

5. Lease Commitment

The Commission entered into a five-year operating lease for its office premises, covering the period from April 1, 1999 to March 31, 2004. The lease payments are set at $17,500 per annum for each of the five years.

Prince Edward Island
HUMAN RIGHTS ACT
Consolidated Version 2000

Please Note:
This document is a consolidation of this statute to March 31, 2000, prepared by the Office of the Legislative Counsel. It is intended for information and reference purposes only. This document is not the official version of the statute printed pursuant to the authority of the Queen's Printer Act R.S.P.E.I. 1988, Cap.Q-1. This Act and the amendments as printed under the authority of the Queen's Printer for the Province should be consulted when determining the authoritative statement of the law.

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CHAPTER H-12

HUMAN RIGHTS ACT

WHEREAS recognition of the inherent dignity and the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world and is in accord with the Universal Declaration of Human Rights as proclaimed by the United Nations; Preamble

AND WHEREAS it is recognized in Prince Edward Island as a fundamental principle that all persons are equal in dignity and human rights without regard to race, religion, creed, color, sex, marital status, or ethnic or national origin;

AND WHEREAS in 1968 *An Act Respecting Human Rights* was passed by the legislature of this province in response to the Universal Declaration of Human Rights passed by the General Assembly of the United Nations;

AND WHEREAS the principles contained in *An Act Respecting Human Rights* require amplification;

AND WHEREAS it is deemed desirable to provide for the people of the province a Human Rights Commission to which complaints relating to discrimination may be made:

1. (1) In this Act Definitions

(a) "business, professional or trade association" includes an organization of persons which by an enactment, agreement or custom has power to admit, suspend, expel or direct persons in relation to any business or trade or in the practice of any occupation or calling; business, professional or trade association

(a.1) "Chairperson" means the Chairperson of the Human Rights Commission except where the context otherwise requires; Chairperson

(b) "commercial unit" means any building or other structure or part thereof that is used or occupied or is intended, arranged or designed to be used or occupied for the manufacture, sale, resale, processing, reprocessing, displaying, storing, handling, garaging or distribution of personal property, or any space that is used or occupied or is intended, arranged or designed to be used or occupied as a separate business or professional unit or office in any building or other structure or a part thereof; commercial unit

Commission

(c) "Commission" means the Prince Edward Island Human Rights Commission;

discrimination

(d) "discrimination" means discrimination in relation to age, colour, creed, ethnic or national origin, family status, marital status, physical or mental handicap, political belief, race, religion, sex, sexual orientation, or source of income of any individual or class of individuals;

employees' organization

(e) "employees' organization" includes an organization of employees formed for purposes that include the regulation of relations between employees and employers;

employer

(f) "employer" includes a person who contracts with a person for services to be performed by that person or wholly or partly by another person;

employers' organization

(g) "employers' organization" includes an organization of employers formed for purposes that include the regulation of relations between employers and employees;

employment agency

(h) "employment agency" includes a person who undertakes with or without payment to procure employees for employers and a person who undertakes with or without payment to procure employment for persons;

Executive Director

(h.1) "Executive Director" means the person selected to the position of Executive Director of the Commission and includes that person's delegate;

marital status

(h.2) "marital status" means the status of being married, single, widowed, divorced, separated, or living with a person of the opposite sex in a conjugal relationship outside marriage;

Minister

(i) "Minister" means the member of the Executive Council charged with the administration of this Act by the Lieutenant Governor in Council;

payment

(j) "payment" means remuneration in any form;

person

(k) "person" includes employer, employers' organization, employees' organization, business, professional or trade association, whether acting directly or indirectly, alone or with another, or by the interposition of another;

physical or mental handicap

(l) "physical or mental handicap" means a previous or existing disability, infirmity, malformation or disfigurement, whether of a physical or mental nature, that is caused by injury, birth defect or illness, and includes but is not limited to epilepsy, any degree of paralysis, amputation, lack of physical coordination, blindness or

visual impediment, deafness or hearing impediment, muteness or speech impediment, or physical reliance on a guidedog, wheelchair or other remedial device;

(m) "political belief" means belief in the tenets of a political party that is at the relevant time registered under section 24 of the *Election Act* R.S.P.E.I. 1988, Cap. E-1 as evidenced by political belief

(i) membership of or contribution to that party, or

(ii) open and active participation in the affairs of that party.

(2) This Act shall be deemed to prevail over all other laws of this province and such laws shall be read as being subject to this Act. Construction of Act

(3) For the purposes of this Act the onus of establishing an allegation of discrimination or action on a discriminatory basis in relation to political belief is upon the person making the allegation. 1975,c.72,s.1; 1980,c.26,s.1; 1985,c.23,s.1; 1989(2nd),c.3,s.1 *{eff.}* Mar.25/88; 1997(2nd),c.65,s.1; 1998,c.92,s.1. Onus

PART I
DISCRIMINATION PROHIBITED

2. (1) No person shall discriminate Discrimination in accommodation prohibited

(a) against any individual or class of individuals with respect to enjoyment of accommodation, services and facilities to which members of the public have access; or

(b) with respect to the manner in which accommodations, services and facilities, to which members of the public have access, are provided to any individual or class of individuals.

(2) Subsection (1) does not prevent the denial or refusal of accommodation, services or facilities to a person on the basis of age if the accommodation, services or facilities are not available to that person by virtue of any enactment in force in the province. 1975,c.72,s.2; 1984,c.23,s.1. Application

3. (1) No person shall Denial of occupancy rights prohibited

(a) deny to any individual or class of individuals, on a discriminatory basis, occupancy of any commercial unit or self-contained dwelling unit or accommodation in a housing unit that is used to provide rental accommodation; or

(b) discriminate against any individual or class of individuals with respect to any term or condition of occupancy of any commercial unit or self-contained dwelling unit, or accommodation in a housing unit that is used to provide rental accommodation.

Application of section

(2) This section does not apply to the barring of any person because of the sex of such person

(a) from accommodation in a housing unit where the housing unit is in a structure having two or more housing units;

(b) from a self-contained dwelling unit, where the dwelling unit is in a structure having two or more self-contained dwelling units,

where occupancy of all the housing units or dwelling units, except that of the owner or the agent of the owner, is restricted to individuals of the same sex. 1975,c.72,s.3.

Discrimination in property sales prohibited

4. No person who offers to sell property or any interest in property shall

(a) refuse an offer to purchase the property or interest made by an individual or class of individuals on a discriminatory basis; or

(b) discriminate against any individual or class of individuals with respect to any term or condition of sale of any property or interest. 1975,c.72,s.4.

Restrictive covenants void

5. Where in an instrument transferring an interest in real property a covenant or condition restricts the sale, ownership, occupation, or use of the property on a discriminatory basis, the covenant or condition is void. 1975,c.72,s.5.

Discrimination in employment prohibited

6. (1) No person shall refuse to employ or to continue to employ any individual

(a) on a discriminatory basis, including discrimination in any term or condition of employment; or

(b) because the individual has been convicted of a criminal or summary conviction offence that is unrelated to the employment or intended employment of the individual.

Employment agencies

(2) No employment agency shall accept an inquiry in connection with employment from any employer or prospective employee that directly or indirectly expresses any limitation, specification or preference or invites information that is discriminatory and no employment agency shall discriminate against any individual.

Application for employment forms

(3) No person shall use or circulate any form of application for employment or publish any advertisement in connection with employment or prospective employment or make any inquiry in connection with employment that directly or indirectly expresses any limitation, specification or preference or invites information that is discriminatory.

Application of section

(4) This section does not apply to

(a) a refusal, limitation, specification or preference based on a genuine occupational qualification;

(b) employment where physical or mental handicap is a reasonable disqualification;

(c) an exclusively religious or ethnic organization or an agency of such an organization that is not operated for private profit and that is operated primarily to foster the welfare of a religious or ethnic group with respect to persons of the same religion or ethnic origin as the case may be, if religion, creed, color, sex, marital status or ethnic or national origin is a reasonable occupational qualification. 1975,c.72,s.6; 1985,c.23,s.2; 1987,c.6,s.8; 1998,c.92,s.2.

Discrimination in pay prohibited

7. (1) No employer or person acting on behalf of an employer shall discriminate between his employees by paying one employee at a rate of pay less than the rate of pay paid to another employee employed by him for substantially the same work, the performance of which requires equal education, skill, experience, effort, and responsibility and which is performed under similar working conditions, except where the payments are made pursuant to

(a) a seniority system;

(b) a merit system; or

(c) a system that measures earnings by quantity or quality of production or performance,

but where the systems referred to in clauses (a) to (c) are based on discrimination, the exemptions do not apply.

Reduction of pay prohibited, where

(2) No employer or person acting on his behalf shall reduce the rate of pay of an employee in order to comply with subsection (1).

Causing an employer to pay in contravention of ss. (1)

(3) No business, professional or trade association, employees' or employers' organization, or employees, as the case may be, or its agents, shall cause or attempt to cause an employer to pay to his employees rates of pay that are in contravention of subsection (1).

Remedies of employee

(4) Where an employee is paid less than the rate of pay to which the employee is entitled under this section, the employee is entitled, subject to subsection (5),

(a) to recover from the employer by way of action in Supreme Court the difference between the amount paid and the amount to which the employee was entitled, together with costs;

(b) to enforcement of all other rights and remedies against the employer which the employee would have been entitled to had the employer not failed to comply with this section,

but

(c) proceedings under clause (a) or (b) shall be commenced within twelve months from the date upon which the cause of action arose and not afterwards;

(d) the proceedings under clauses (a) and (b) apply only to wages of an employee during the twelve month period immediately preceding the termination of the employee's services or the commencement of the proceedings, whichever occurs first;

(e) the proceedings under clause (a) or (b) may not be commenced or proceeded with where the employee had made a complaint on the prescribed form to the Commission in respect of the contravention of this section; and

(f) no complaint by an employee in respect to a contravention shall be acted upon by the Commission where proceedings have been commenced by the employee under this section.

Idem

(5) An employee is not entitled to the recovery and enforcement referred to in subsection (1) if an appeal or grievance procedure is provided for the employee under the *Civil Service Act* R.S.P.E.I. 1988, Cap. C-8 the *School Act* R.S.P.E.I. 1988, Cap. S-2 or the *Labour Act* R.S.P.E.I. 1988, Cap. L-1 or where the employee is a party to a proceeding before an arbitration board constituted under the *Arbitration Act* R.S.P.E.I. 1988, Cap. A-16 and the arbitration board has jurisdiction to adjudicate on the question of rates of pay. 1975,c.72,s.7.

Employees' organizations

8. No employees' organization shall exclude any individual from full membership or expel or suspend any of its members on a discriminatory basis or discriminate against any individual in regard to his employment by an employer. 1975,c.72,s.8.

Professional business or trade association membership

9. No business, professional or trade association shall exclude any individual from full membership or expel or suspend any of its members on a discriminatory basis. 1975,c.72,s.9.

Person or agency carrying out public functions

10. (1) No person or agency carrying out a public function, including fire protection or hospital services, through the use in whole or in part of volunteers, shall exclude, expel or limit any volunteer applicant on a discriminatory basis.

Religious and non-profit organizations excepted

(2) This section does not apply to an exclusively religious or ethnic organization that is not operated for private profit and that is operated primarily to foster the welfare of a religious or ethnic group with respect to persons of the same religion or ethnic origin, as the case may be. 1975,c.72,s.10.

Application to insurance and retirement plans

11. The provisions of this Act relating to discrimination in relation to age or physical or mental handicap do not affect the operation of any genuine retirement or pension plan or any genuine group or employee insurance plan. 1975,c.72,s.11; 1980,c.26,s.2; 1985,c.23,s.3.

Discrimination in advertising prohibited

12. (1) No person shall publish, display or broadcast, or permit to be published, displayed or broadcasted on lands or premises, or in a newspaper or through a radio or television broadcasting station or by means of any other medium, any notice, sign, symbol, implement or other representation indicating discrimination or an intention to discriminate against any person or class of persons.

Free expression of opinion

(2) Nothing in this section shall be deemed to interfere with the free expression of opinion upon any subject in speech or in writing. 1975,c.72,s.12.

Discrimination because of association

13. No person shall discriminate against an individual or the class of individuals in any manner prescribed by this Act because of race, religion, creed, colour, sex, marital status, ethnic or national origin, age, physical or mental handicap or political belief of any person with whom the individual or class of individuals associates. 1975,c.72,s.13; 1980,c.26,s.3; 1985,c.23,s.3; 1989(2nd),c.3,s.2 *{eff.}* Mar. 25/88.

Exceptions to Act

14. (1) Sections 2 to 13 do not apply

(a) to the display of a notice, sign, symbol, emblem, or other representation displayed to identify facilities customarily used by one sex;

(b) to display or publication by or on behalf of an organization that

(i) is composed exclusively or primarily of persons having the same political or religious beliefs, nationality, ancestry, or place of origin, and

(ii) is operated as a non-profit organization, of a notice, sign, symbol, emblem, or other representation indicating a purpose or membership qualification of the organization;

(c) to philanthropic, fraternal or service groups, associations or organizations, to the extent that they discriminate on the basis of sex in their qualifications for membership;

(d) to a refusal, limitation, specification, or preference based on a genuine qualification; or

(e) to trusts, deeds, contracts, agreements or other instruments entered into before this Act comes into force.

Complainant Onus of proof

(2) The onus of proving that a qualification is a genuine qualification is on the employer or other person asserting that the qualification is a genuine qualification. 1975,c.72,s.14.

Protection of

15. No person shall evict, discharge, suspend, expel or otherwise discriminate against any person because he has made a complaint or given evidence or assisted in any way in respect of the initiation, inquiry or prosecution of a complaint or other proceeding under this Act. 1975,c.72,s.15.

Welfare assistance benefits

15.1 Nothing in this Act prevents the Government of Prince Edward Island, an agency of the Crown, or a regional authority established pursuant to the *Health and Community Services Act* R.S.P.E.I. 1988, Cap. H-1.1 from requiring that persons be in receipt of, or eligible for, welfare assistance benefits in order to qualify for access to accommodations, services, programs, or facilities directed at assisting persons in receipt of, or eligible for, welfare assistance benefits. 1998,c.92,s.3.

PART II
HUMAN RIGHTS COMMISSION

Human Rights Commission, established

16. (1) The Prince Edward Island Human Rights Commission is hereby established; the Commission is a corporation.

Composition

(2) The Legislative Assembly, on the recommendation of the Standing Committee on Social Development, shall

(a) appoint not fewer than three and not more than nine members to the Commission; and

(b) designate one of the members as Chairperson of the Commission.

Chair appointed in absence of Chairperson

(2.1) Where the Chairperson is not a member of a Human Rights Panel appointed pursuant to this Act, the Chairperson shall designate one member of the Human Rights Panel to act as Chair for the purposes of carrying out the duties of the Human Rights Panel.

Term of office

(3) Each Commissioner

(a) shall hold office for a term not exceeding three years, as prescribed in the Commissioner's appointment; and

(b) is eligible for re-appointment.

Remuneration and reimbursement

(4) Each Commissioner not a member of the civil service, shall be paid such remuneration as the Lieutenant Governor in Council determines.

Vacancies, filling

(5) Whenever a Commissioner ceases to hold office, the Lieutenant Governor in Council may appoint a person to fill the vacancy. 1975,c.72,s.16; 1997(2nd),c.65,s.2.

Commission responsible to Minister

17. The Commission is responsible to the Minister for the administration of this Act. 1975,c.72,s.17.

Powers and duties of Commission

18. The Commission shall

(a) administer and enforce this Act;

(b) develop a program of public information and education in the field of human rights to forward the principle that every person is free and equal in dignity and rights without regard to race, religion,

creed, colour, sex, marital status, ethnic or national origin, age, physical or mental handicap or political belief;
(c) advise the government on suggestions, recommendations and requests made by private organizations and individuals;
(d) report as required by the Minister on the business and activities of the Commission;
(e) consider, investigate or administer any matter or activity referred to the Commission by the Lieutenant Governor in Council or the Minister. 1975,c.72,s.18; 1980,c.26,s.4; 1985,c.23,s.3; 1989(2nd), c.3,s.2 *{eff.}* Mar.25/88.

Staff

19. (1) The Commission may appoint and employ such officers and employees as are required for the proper conduct of its business and may determine their functions, conditions of employment and remuneration.

Application of Civil Service Act

(2) The *Civil Service Act* does not apply to the appointment or employment of any person pursuant to subsection (1). 1985,c.23,s.4.

Approved programs

20. The Commission may approve programs of government, private organizations or persons designed to promote the welfare of any class of individuals, and any approved program shall be deemed not to be a violation of the prohibitions of this Act. 1975,c.72,s.19.

Commission budget

21. (1) The Commission shall present a yearly budget to the Minister estimating the expenditure of the Commission on the various programs and activities.

Expenses, payment

(2) All costs, charges and expenses incurred by the Commission in administering this Act shall be paid out of money appropriated by the Legislature therefor. 1975,c.72,s.20.

PART II
ADMINISTRATION

Who may make complaint

22. (1) Any person, except the Commission or an employee of the Commission, who has reasonable grounds for believing that a person has contravened this Act may make a complaint to the Commission.

Complaint within one year

(2) A complaint made pursuant to subsection (1) shall
(a) be in writing in a form acceptable to the Commission; and
(b) be made within one year after the alleged contravention of the Act occurred.

Executive Director investigates

(3) The Executive Director shall investigate and attempt to effect settlement of the complaint.

If complaint without merit

(4) Notwithstanding subsection (3), the Executive Director may, at any time,

(a) dismiss a complaint if the Executive Director considers that the complaint is without merit;

(b) discontinue further action on the complaint if, in the opinion of the Executive Director, the complainant has refused to accept a proposed settlement that is fair and reasonable;

(c) discontinue further action on the complaint if it could be dealt with more appropriately by an alternate method of resolution under any other Act, or if grievance or other review procedures have not been exhausted; or

(d) report to the Chairperson of the Commission that the parties are unable to settle the complaint.

Decision respecting dismissal

(5) The Executive Director shall forthwith serve notice of a decision under subsection (4) upon the complainant and the person against whom the complaint was made. 1997(2nd),c.65,s.3.

Powers of investigation

23. (1) For the purposes of an investigation under section 22, the Executive Director may do any or all of the following:

(a) subject to subsection (2), enter any place at any reasonable time to examine it;

(b) make inquiries orally or in writing of any person who has or may have information relevant to the subject-matter of the investigation;

(c) demand the production for examination of records and documents, including electronic records and documents, that are or may be relevant to the subject-matter of the investigation;

(d) on giving a receipt for them, remove any of the things referred to in clause (c) for the purpose of making copies of or extracts from them,

and all information obtained pursuant to this subsection shall be kept in confidence, except as required for the purposes of this Act.

Entry for investigation

(2) The Executive Director may enter and examine a room or place actually used as a dwelling only if

(a) the owner or person in possession of it consents to the entry and examination; or

(b) the entry and examination is authorized by a judge under section 24. 1997(2nd),c.65,s.3.

Court order for entry

24. (1) Where a judge is satisfied on the Executive Director's evidence under oath that there are reasonable grounds for the Executive Director to exercise a power under section 23 and that

(a) in the case of a room or place actually used as a dwelling, the Executive Director cannot obtain the consent under clause 23(2)(a),

or, having obtained the consent, the Executive Director has been obstructed or interfered with in conducting the investigation;

(b) the Executive Director has been refused entry to a place other than a dwelling;

(c) a person refuses or fails to answer inquiries under clause 23(1)(b); or

(d) a person upon whom a demand is made under clause 23(1)(c) refuses or fails to comply with the demand or to permit the removal of a thing under clause 23(1)(d);

the judge may make any order that the judge considers necessary to enable the Executive Director to exercise the powers set out in subsection 23(1).

Application may be *ex parte*

(2) An application under subsection (1) may be made with or without notice to the parties to the complaint.

Items to be returned in 48 hours

(3) If the Executive Director removes anything referred to in clause 23(1)(c), the Executive Director may make copies of or extracts from the thing that was removed and shall return it to the place from which it was removed within 48 hours after removing it. 1997(2nd),c.65,s.3.

Review of dismissal of complaint

25. (1) A complainant may, not later than 30 days after receiving notice of the dismissal of a complaint or of a discontinuance pursuant to subsection 22(4), by notice in writing to the Commission request a review of the Executive Director's decision by the Chairperson of the Commission.

Notice to person complained against

(2) The Commission shall serve a copy of the request for review upon the person against whom the complaint was made.

Chairperson's power of review

(3) The Chairperson of the Commission shall

(a) review the Executive Director's decision and decide whether

(i) the complaint should have been dismissed; or

(ii) the proposed settlement was fair and reasonable

as the case may be; and

(b) forthwith serve notice of the Chairperson's decision upon the complainant and on the person against whom the complaint was made.

Decision final and binding

(4) A decision of the Chairperson under subsection 25(3) is final and binding upon the parties. 1997(2nd),c.65,s.3.

Complaints to be dealt with by Panel

26. (1) The Chairperson shall appoint a Human Rights Panel to deal with a complaint in the following circumstances:

(a) where the Chairperson receives a report from the Executive Director that the parties are unable to settle the complaint; or

(b) where the Chairperson decides under subsection 25(3) that the complaint should not have been dismissed or that the proposed settlement was not fair and reasonable.

Composition of Panel

(2) A Human Rights Panel shall, unless special circumstances warrant the appointment of additional members, consist of one member of the Commission.

Chairperson may sit on Human Rights Panel

(3) Subject to subsection (4), the Chairperson may sit on a Human Rights Panel either as a single member or with other members.

Chairperson ineligible, when

(4) Where the Chairperson has conducted a review under section 25 in respect of a complaint, the Chairperson is not eligible to sit on the Human Rights Panel dealing with that complaint.

Powers under Public Inquiries Act

(5) A Human Rights Panel and each member has all the powers of a commissioner under the *Public Inquiries Act* R.S.P.E.I. 1988, Cap. P-31.

Decision of majority

(6) If a Human Rights Panel consists of more than one person, the decision of the majority is the decision of the Panel. 1997(2nd),c.65,s.3.

Parties

27. The following persons are parties to a proceeding before a Human Rights Panel:

(a) the Executive Director;

(b) the complainant;

(c) any person named in the complaint who is alleged to have been dealt with in a manner contrary to this Act;

(d) any person named in the complaint who is alleged to have contravened this Act;

(e) any other person specified by the Human Rights Panel, on a notice given by the Panel, and after the prospective party has been given the opportunity to be heard by the Panel if the person objects to being made a party. 1997(2nd),c.65,s.3.

Minister's order

28. Repealed by 1997(2nd),c.65,s.3.

Carriage of the proceeding

28.1 The Executive Director has carriage of the proceeding before a Human Rights Panel, except where the Chairperson of the Commission has made a decision under subsection 25(3), and in such a case the complainant has carriage of the proceeding. 1997(2nd),c.65,s.4.

Right to counsel

28.2 (1) The parties to a proceeding before a Human Rights Panel are entitled to appear and be represented by counsel at a hearing held by the Panel.

(2) Evidence may be given before a Human Rights Panel in any manner that the Panel considers appropriate, and the Panel is not bound by the rules of law respecting evidence in civil proceedings. Evidence

(3) A Human Rights Panel, on proof of service of notice of a hearing on the person against whom the complaint was made, may proceed with the hearing in the absence of that person and decide on the matter being heard in the same manner as though the person was in attendance. Proceeding where person absent

(4) A hearing before a Human Rights Panel shall be open to the public unless, on the application of any party, the Human Rights Panel decides that it would be advisable to hold the hearing in private Hearing public, except

(a) because of the confidential nature of the matter to be heard; or

(b) because of the potential adverse effect on any of the parties, other than the person against whom the complaint was made. 1997(2nd),c.65,s.4.

28.3 A Human Rights Panel may, at any stage of the proceedings, refer a stated case under the Rules of Court to the Supreme Court Trial Division, on any question of law arising in the course of the proceedings, and may adjourn the proceedings until the decision is rendered on the stated case. 1997(2nd),c.65,s.4. Stated case

28.4 (1) A Human Rights Panel Powers of Panel

(a) shall, if it finds that a complaint is without merit, order that the complaint be dismissed; and

(b) subject to subsection (2), may, if it finds that a complaint has merit in whole or in part, order the person against whom the finding was made to do any or all of the following:

(i) to cease the contravention complained of;

(ii) to refrain in future from committing the same or any similar contravention;

(iii) to make available to the complainant or other person dealt with contrary to this Act, the rights, opportunities or privileges that the person was denied contrary to this Act;

(iv) to compensate the complainant or other person dealt with contrary to this Act for all or any part of wages or income lost or expenses incurred by reason of the contravention of this Act;

(v) to take any other action the Panel considers proper to place the complainant or other person dealt with contrary to this Act in the position the person would have been in, but for the contravention.

(2) Subject to subsections (3), (4), and (5), where Compensation formula

(a) a Human Rights Panel orders compensation in respect of a complaint made pursuant to subsection 6(1) relating to termination of employment or refusal to employ; and

(b) the complainant has been employed by the respondent in the twelve months preceding the discriminatory act on which the complaint is based,

the amount awarded by the Human Rights Panel shall not exceed the weekly remuneration of the complainant when last employed by the respondent, multiplied by the total number of weeks worked for the respondent divided by fifty-two, multiplied by two.

Application of subsection (2)

(3) Subsection (2) applies to all complaints of discrimination based on political belief, including political belief complaints based on association as described in section 13 that

(a) relate to employment in the casual division of the civil service as defined in the *Civil Service Act*, R.S.P.E.I. 1988, Cap. C-8 or contracts for service where the Government of Prince Edward Island or a Crown agency is a party to the contract; and

(b) are filed with the Commission prior to June 1, 1999, including complaints which are unresolved as of the date of the coming into force of this Act.

Contract for service

(4) Where a complaint to which subsection (2) applies is based upon a contract for service, the complainant's weekly remuneration for the purposes of subsection (2) is deemed to be the contract amount earned in the last twelve months of service, divided by fifty-two.

Compensation comprehensive and exhaustive

(5) Compensation ordered pursuant to subsection (2) is deemed to be comprehensive and exhaustive, and a Human Rights Panel shall make no other order in respect of any complaint to which subsection (2) applies.

Costs

(6) A Human Rights Panel may make any order as to costs that it considers appropriate.

Decision served on parties

(7) A Human Rights Panel shall serve a copy of its decision, including the findings of fact upon which the decision was based and the reasons for the decision, on the parties. 1997(2nd),c.65,s.4.

New evidence

28.5 (1) If there is new evidence available that was not available or that for good reason was not presented before the Human Rights Panel in the first instance, the Panel may, on the application of any party or on its own motion, reconsider any matter considered by it.

Same powers on reconsideration

(2) For the purposes of a reconsideration pursuant to subsection (1), the Human Rights Panel has all of the same powers and duties as it had on the initial hearing.

Not later than 30 days

(3) Reconsideration of a matter pursuant to subsection (1) shall be commenced not later than 30 days after the Panel's decision in the first instance. 1997(2nd),c.65,s.4.

28.6 Subject to subsection 28.4(2), no settlement effected pursuant to this Act and no order made by a Human Rights Panel may compensate a person for wages or income lost or expenses incurred prior to one year before the date of the discriminatory act on which the person's complaint is based. 1997(2nd),c.65,s.4. Settlement not more than one year prior to discriminatory act

28.7 An order made by a Human Rights Panel may be filed with the Registrar of the Supreme Court in the appropriate division, and upon being so entered it is enforceable in the same manner as an order of the Supreme Court, Trial Division. 1997(2nd),c.65,s.4. Order filed in court

28.8 A decision of a Human Rights Panel is final and binding upon the parties. 1997(2nd),c.65,s.4. Decision final and binding

29. Every person who does anything prohibited by this Act or who refuses or neglects to comply with any order made under this Act is guilty of an offence and is liable on summary conviction Offences and penalties

(a) if an individual, to a fine of not less than $100 and not exceeding $500; and

(b) if a person other than an individual, to a fine of not less than $200 and not exceeding $2,000. 1975,c.72,s.28; 1994,c.58,s.6.

30. (1) No proceeding under this Act shall be deemed invalid by reason of any defect in form or any technical irregularity. Defect in form or procedure

(2) In any prosecution under this Act it shall be sufficient for conviction if a reasonable preponderance of evidence supports a charge that the accused has done anything prohibited by this Act or has refused or neglected to comply with an order made under this Act. 1975,c.72,s.29. Evidence required for conviction

31. A prosecution for an offence under this Act may be brought against an employers' organization, employees' organization, business, professional or trade association in the name of the organization or association, and for the purpose of any prosecution these shall be deemed to be corporations and any act or thing done or omitted by an officer or agent within the scope of his authority to act on behalf of the organization or association shall be deemed to be an act or thing done or omitted by the organization or association. 1975,c.72,s.30. Organizations deemed corporations

32. (1) Where a person has been convicted of an offence under this Act, the Minister may apply to a judge of the Supreme Court for an order enjoining the person from continuing the offence. Order enjoining person from continuing offence

(2) The judge in his discretion may make such order and the order may be enforced in the same manner as any other order or judgment of the Supreme Court. 1975,c.72,s.31. Jurisdiction of court

Promotion of Act

33. (1) The Lieutenant Governor in Council may undertake or cause to be undertaken such inquiries and other measures as appear advisable or desirable to promote the purposes of this Act.

Regulations

(2) The Commission may, with the approval of the Lieutenant Governor in Council, make regulations respecting any matter necessary or desirable for the attainment of the objects and purposes of this Act, and without limiting the generality thereof, may

(a) prescribe forms;

(b) prescribe and enumerate qualifications that for the purposes of this Act are genuine qualifications having the effect under section 14 of exempting certain practices or activities from the prohibitions against discrimination;

(c) identify and approve specific or general job descriptions or classifications for which a genuine qualification exists;

(d) make regulations respecting practice and procedure before a Human Rights Panel. 1975,c.72,s.32 1997(2nd),c.65,s.5.

Crown bound

34. This Act binds the Crown in right of Prince Edward Island and every servant and agent of the Crown. 1975,c.72,s.33.

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